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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,193	02/04/2004	Amber McCrocklin	13881-44763	4673

7590 08/25/2004

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EXAMINER

WRIGHT, ANDREW D

ART UNIT PAPER NUMBER

3617

DATE MAILED: 08/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/772,193

Applicant(s)

MCCROCKLIN ET AL.

Examiner

Andrew Wright

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-9, 11 and 13-15 is/are allowed.
- 6) ☒ Claim(s) 10, 12, 16, 18 and 19 is/are rejected.
- 7) ☒ Claim(s) 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "16". Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the movement of the

Art Unit: 3617

biasing connector away from the pivotable grip member urges the pivotable grip member to pivot in the second direction (claim 11) and the first portion of the boat is between a waterline and the second portion of the boat (claim 18) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities: the specification is **replete** with inconsistent use of terms and reference characters; the

specification has numerous typographical errors. Appropriate correction is required.

The following is an exemplary list of errors, and should not be construed as exhaustive:

- a. The "connection assembly" is used with two different reference characters, "16" on page 5 and "14" on page 7.
- b. There is a typo ("device 1-" on line 14 of page 5.
- c. There is a typo ("device 1o") on line 1 of page 7.
- d. The "second biasing member" is used with two different reference characters, "36" and "26" both on page 7.
- e. Twice in line 8 of page 7, the ladder is mistakenly identified with reference character "19".
- f. Page 7, line 10, "second biasing member" should be "gripping member".
- g. Page 7, line 17, "42, 42" should be "40, 42".
- h. Page 8, line 13, "assemble" should be "assembly".
- i. Page 8, line 15, the reference character "30" should follow the word "frame" and not the word "adjacent".
- j. Page 9, line 13, "member(s)" should be "member", and "32" should be "36".

Claim Objections

5. Claims 1, 7, 8, 16, and 18 are objected to because of the following informalities.

Appropriate correction is required.

- a. Claim 1, line 5, "member" should be inserted after "ramp".
- b. Claim 1, line 16, "member" should be inserted after "ramp".

- c. Claim 1, line 20, "first" should be inserted after "the".
- d. Claim 1, line 32, "pin" should be "protrusion".
- e. Claim 7, line 1, "member" should be inserted after "ramp".
- f. Claim 8, line 1, "hooked" should be inserted before "support".
- g. Claim 16, line 6, "portion" should be inserted after "end".
- h. Claim 16, line 8, "body" should be inserted after "central".
- i. Claim 18, line 5, "portion" should be inserted after "end".
- j. Claim 18, line 7, "body" should be inserted after "central".

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 18 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claim 18 recites that the support member abuts a first portion of the boat, that the strut abuts a second portion of the boat, and that the first portion is between a waterline and the second portion. This is not adequately described.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 10 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 10 recites the limitation "the platform" in line 1. There is insufficient antecedent basis for this limitation in the claim. This claim is unclear even when read in light of the specification.

7. Claim 12 recites the limitations "the elongated ladder member" and "the elongated strut assembly". There is insufficient antecedent basis for these limitations in the claim. This claim is unclear even when read in light of the specification.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

9. Claim 16 is rejected under 35 U.S.C. 102(a) as being anticipated by Dutkiewicz et al. (US 6,598,562). Boat ladder has first and second member (80) and a top rung (not numbered) extending therebetween (figures 1-2). Ramp member (50) is elongate. Proximal end portion is the portion near end (60). Central body portion is end (58). Support member is (30). Strut is (12). Gripping assembly is (36).

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Koppelomaki (US 4,611,552). Ramp is (2). Support member is (1). Strut is (6). Gripping assembly is (4). When the waterline is above (4), the first portion is between the waterline and the second portion.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dutkiewicz et al. (US 6,598,562). Dutkiewicz disclose the structure, but does not explicitly disclose the recited method steps. The Dutkiewicz apparatus is used for the same purpose as the recited method steps – to transport a land animal from the water to an elevated surface out of the water. The method steps recited in claim 19 are inherent in the making and use of the Dutkiewicz apparatus. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made

to devise the claimed method steps. The motivation would be to make and use the Dutkiewicz apparatus.

Allowable Subject Matter

14. Claims 1-9, 11, and 13-15 are allowed.
15. Claim 17 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
16. The following is an examiner's statement of reasons for allowance: the prior art does not teach or suggest the claimed combination specifically comprising a gripping member with biasing means.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Higgins ('747) shows a ramp attached to a ladder. Plasclascovitie ('914) shows a ramp attached to a ladder. Kwiatkowski ('197) shows a ramp attached to a ladder. Baranowski ('314) shows a boarding ramp for a boat. Campbell ('030) shows a ramp attached to a ladder. Page ('373) shows a ramp

attached to a ladder. Allen ('023) shows a ramp attached to a ladder. Miller (2003/0106173) shows a boat boarding ramp attached to a ladder rung. Fazio (D440,717) shows an adjustable ramp for pets.

18. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 703-746-3548.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright
Patent Examiner
Art Unit 3617

fr 8-20-04
ANDREW D. WRIGHT
PRIMARY EXAMINER